

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

**In re:**

**BAYOU STEEL BD HOLDINGS, L.L.C., *et al.*,<sup>1</sup>**

**Debtors.**

---

**TROY FLEMING, JARROD NABOR, and  
DAVARIAN URSIN, on behalf of themselves and  
all others similarly situated,**

**Plaintiffs,**

**v.**

**BAYOU STEEL BD HOLDINGS, L.L.C. *dba*  
BAYOU STEEL GROUP, BD BAYOU STEEL  
INVESTMENT, LLC, BD LAPLACE, LLC,  
BAYOU STEEL BD HOLDINGS II, L.L.C.,  
and BLACK DIAMOND CAPITAL  
MANAGEMENT, LLC,**

**Defendants.**

**Chapter 11  
Bankruptcy Case  
No. 19-1253-KBO  
(Jointly Administered)**

**Adv. Pro. No. 19-50392-KBO  
c/w  
Adv. Pro. No. 19-50748-KBO**

**JURY TRIAL DEMANDED**

**NOTICE OF FRCP 41 VOLUNTARY DISMISSAL**

**NOW INTO COURT**, through undersigned counsel, comes Plaintiffs, Troy Fleming, Jarrod Nabor, Davarian Ursin, Charles Ziegeler, and Ronnie Millet (“Plaintiffs”),<sup>2</sup> on behalf of themselves and a putative class of similarly situated former employees of Bayou Steel BD Holdings, L.L.C. *dba* Bayou Steel Group *fka* BD Long Products, LLC (“BD Holdings”), BD Bayou Steel Investment, LLC (“BD Investment”), and BD LaPlace, LLC *fka* Arcelormittal

---

<sup>1</sup> The Debtors in these cases are Bayou Steel BD Holdings, L.L.C. (Bankr. Case No. 19-12153-KBO); BD Bayou Steel Investment, LLC (Bankr. Case No. 19-12154-KBO); and BD LaPlace, LLC (Bankr. Case No. 19-12155-KBO). The last four digits of the taxpayer identification numbers for each of the Debtors follow in parenthesis: (i) Bayou Steel BD Holdings, L.L.C. (1984); (ii) BD Bayou Steel Investment, LLC (1222); and (iii) BD LaPlace, LLC (5783). The mailing address for the Debtors is 138 Highway 3217, LaPlace, Louisiana 70068.

<sup>2</sup> Plaintiffs were originally part of two separate but nearly identical WARN Act actions, but those adversary proceedings were consolidated on January 2, 2020. *See* D.I. 26.

LaPlace, LLC (“BD LaPlace” and, collectively, “Debtors”), who hereby file this Notice of Voluntary Dismissal under Rule 41(a)(1), made applicable by Rule 7041 of the Federal Rules of Bankruptcy Procedure, as it relates to the Defendants Bayou Steel BD Holdings II, L.L.C. (“Bayou Steel Parent”), and Black Diamond Capital Management, LLC (“Black Diamond” and, collectively with Bayou Steel Parent, “Voluntarily Dismissed Defendants”). Voluntarily Dismissed Defendants have not yet filed an answer or served a motion for summary judgment.

Under Fed. R. Civ. P. 41, the plaintiff may dismiss an action without a court order by filing a “notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” Even where a separate defendant has filed an answer, the plaintiff may still voluntarily dismiss all claims against a defendant who has not yet answered. *See, e.g., Terry v. Pearlman*, 42 F.R.D. 335, 337 (D. Mass. 1967) (“Where notice of dismissal is filed under Rule 41(a)(1) with regard to one of several defendants, who has served neither an answer nor a motion for summary judgment, dismissal should not be precluded by the fact that other defendants have served an answer or a motion for summary judgment”) (citing 5 Moore’s Federal Practice, at 1088); *Minitier v. Moon*, 736 F.Supp.2d 41, 45 (D. D.C. 2010) (“[N]one of the defendants the plaintiff purports to dismiss has filed an answer or motion for summary judgment. Therefore, the plaintiff properly dismissed his claims against these defendants pursuant to Rule 41(a)(1)(A)(i).”); *Sheldon v. Amperex Elec. Corp.*, 52 F.R.D. 1, 9 (E.D.N.Y. 1971) (“Service of a notice of motion for summary judgment by one or more of several defendants (or of an answer, for that matter), does not foreclose the plaintiff from dismissing as to any other defendant who has not served notice of such a motion.”).

Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i), this Notice is a voluntary dismissal without prejudice of all claims by Plaintiffs against the Voluntarily Dismissed Defendants (for clarity’s

sake, Bayou Steel Parent and Black Diamond). All claims against the other defendants to this case, referred to as the Debtor Defendants, were dismissed by order of this Court on May 14, 2020 (see D.I. 61).

**THEREFORE**, pursuant to this Notice, Plaintiff's claims against Bayou Steel Parent and Black Diamond are hereby dismissed without prejudice.

Dated: May 19, 2020

Respectfully submitted,

By: /s/ Kevin Mangan  
Kevin J. Mangan (DE Bar No. 3810)  
Nicholas T. Verna (DE Bar No. 6082)  
WOMBLE BOND DICKINSON (US) LLP  
1313 North Market Street, Suite 1200  
Wilmington, Delaware 19801  
Telephone: (312) 252-4320  
Facsimile: (312) 252-4330  
kevin.mangan@wbd-us.com  
nick.verna@wbd-us.com

Brent B. Barriere (La. Bar. No. 2848)  
Jason W. Burge (La. Bar No. 30420)  
Kathryn J. Johnson (La. Bar No. 36513)  
FISHMAN HAYGOOD, L.L.P.  
201 St. Charles Avenue, Suite 4600  
New Orleans, Louisiana 70170  
Telephone: (504) 586-5252  
Facsimile: (504) 586-2520  
bbarriere@fishmanhaygood.com  
jburge@fishmanhaygood.com  
kjohnson@fishmanhaygood.com

Joseph C. Peiffer (La. Bar No. 26459)  
Brandon M. Wise (Mo. Bar No. 67242)  
PEIFFER WOLF CARR & KANE, APLC  
818 Lafayette Ave., Floor 2  
St. Louis, Missouri 63104  
Telephone: (314) 833-4825  
Facsimile: (314) 833-4826  
jpeiffer@pwcklegal.com  
bwise@pwcklegal.com

Eric J. O'Bell (La. Bar No. 26693)  
Bradley T. Oster (La. Bar No. 35540)  
O'BELL LAW FIRM, LLC  
3500 North Hullen Street  
Metairie, Louisiana 70002  
Telephone: (504) 456-8677  
Facsimile: (504) 456-8653  
ejo@obelllawfirm.com  
brad@obelllawfirm.com

Hugh P. Lambert, T.A. (La. Bar No. 7933)  
Cayce C. Peterson, Esq. (La. Bar No. 32217)  
THE LAMBERT FIRM, PLC  
701 Magazine Street  
New Orleans, Louisiana 70130  
Telephone: (504) 581-1750  
Facsimile: (504) 529-2931  
hlambert@thelambertfirm.com  
cpeterson@thelambertfirm.com

Randal L. Gaines, Esq. (La. Bar No. 17576)  
7 Turnberry Drive  
LaPlace, Louisiana 70068  
Telephone: (225) 647-3383  
Facsimile: (985) 652-3299  
attyrandal@gmail.com

*Attorneys for Plaintiffs and Class Members*